

**PLANNING AND ZONING COMMISSION
STAFF REPORT**

September 4, 2008



Planning Exception PE08-05: Terra Firma Properties

CASE DESCRIPTION: request for approval of an exception from the subdivision ordinance requirement to install a sidewalk in conjunction with a proposed replat

LOCATION: 106 and 108 North Avenue, being 1.612 acres of land located on the north side of North Avenue, approximately 215 feet northeast from its intersection with South College Avenue

LEGAL DESCRIPTION: Lots 1 and 2 in Block 1 of the subdivision known as The Garden District

EXISTING LAND USE: South College – Business District (SC-B)

APPLICANT(S): William Alan King of Terra Firma Properties

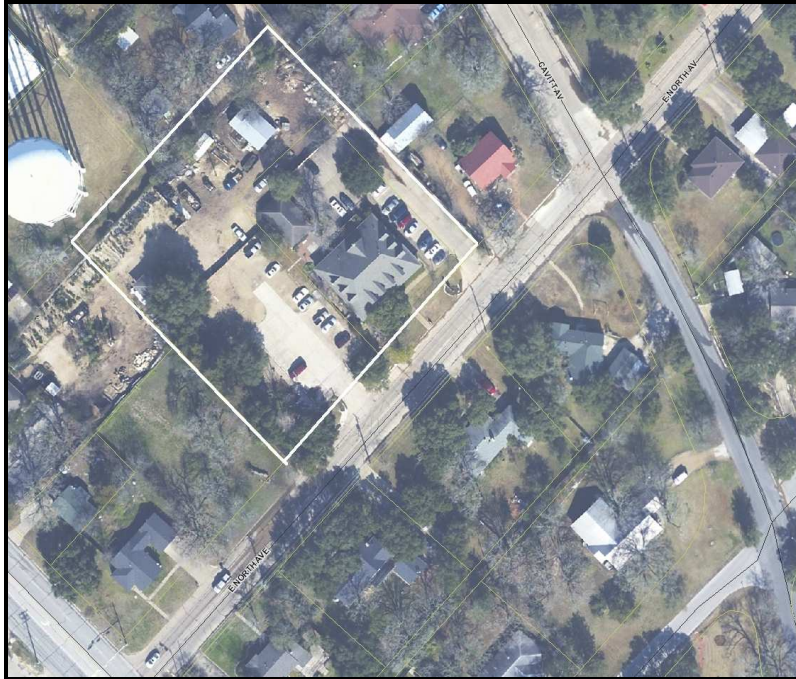
STAFF CONTACT: Randy Haynes, Staff Planner

SUMMARY RECOMMENDATION: Staff recommends **approving** this planning exception.

LOCATION MAP:



AERIAL PHOTOGRAPH:



BACKGROUND:

The applicant is requesting an exception to the requirement to construct an approximately 260-foot long and 6-foot wide sidewalk in conjunction with a proposed replat of Lots 1 and 2 in Block 1 of the subdivision known as The Garden District on the north side of North Avenue. North Avenue was originally dedicated as a 30-foot-wide right-of-way with approval of the North Oakwood Subdivision in 1938. Over the years, the City of Bryan acquired additional right-of-way piecemeal as it has been available or needed. In front of the subject property, right-of-way for North Avenue is currently 51.7 feet wide. Bryan's current Thoroughfare Plan classifies North Avenue as major collector street. Ideally, major collector streets should have at least 80 feet of right-of-way.

With the planned replat of The Garden District subdivision, the property owners propose to dedicate additional right-of-way so that North Avenue would be 60 feet wide in front of the subject property. The land area now proposed to be dedicated as public right-of-way is currently improved with landscaping features, including several mature oak trees. These improvements have been present at this location since the early 1980s. Installation of a 6-foot wide sidewalk in front of the subject property in the newly-dedicated right-of-way for North Avenue would require that existing streetscape improvements be altered or removed. The applicant is requesting an exception from the sidewalk requirements to preserve the existing natural and man-made landscape features in front of the subject property.

COMPREHENSIVE PLAN:

The City of Bryan adopted the Comprehensive Plan Update in 2007. The plan is the framework for the establishment of zoning and other regulatory tools. The current plan includes policies and recommendations related to the various physical aspects of the community. These aspects are supported by a set of goals and objectives. The Planning and Zoning Commission shall consider the following when making a decision regarding this exception request:

5.5 Land Use Policies

Policy statements:

- The City of Bryan will encourage and promote compatible infill and redevelopment in areas where these activities will benefit the city as a whole and the area specifically.
- The City will encourage flexibility when drafting regulations geared toward infill and redevelopment

6.5 Transportation Plan - Goals, Objectives and Action Statements

The following goals, objectives and action statements were developed with input received from citizens to address transportation issues facing Bryan over the next twenty years.

- GOAL #1:** Provide a Safe, Efficient and Convenient Multi-Modal Transportation System
- Objective C** Encourage utilization of alternative modes of transportation including transit, bicycles and pedestrians.
- Action Statement 2:** Create a pedestrian and bike friendly community through the use of a Sidewalk/Bikeway Master Plan updated yearly to provide both new and retrofit sidewalk and bike facility links between neighborhoods, schools, parks and major shopping centers.
- Action Statement 5:** Create a sidewalk capital improvement plan with funding and timeframes to install sidewalks in existing developed areas. Prioritize implementation based on schools, existing beaten paths that are being used and popular bus stops based upon the District ridership.

PHOTOGRAPHS:

The following photographs illustrate the subject property and the way the existing development appears along North Avenue.





ANALYSIS:

The Planning and Zoning Commission may authorize exceptions from standards of the Subdivision Ordinance. The Planning and Zoning Commission may authorize such exceptions when, in its opinion, compliance would not be in the public interest. In granting an exception, the Planning and Zoning Commission shall prescribe only conditions that it deems necessary or desirable in the public interest.

In making its findings, the Planning and Zoning Commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such exception upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.

No exception shall be granted unless the Planning and Zoning Commission finds:

1. That there are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the standards would deprive the applicant of the reasonable use of the land.

Most of the land adjoining North Avenue is currently developed with single-family homes. Properties on both sides of this street have mature trees in either the front yard of adjoining properties or in the street right-of-way. These existing development and landscaping features in one of Bryan's older neighborhoods makes the strict application of current

development standards, including requirements for the installation of sidewalks, difficult to accomplish without significantly altering the existing streetscape.

Staff believes that, in the long-term, continued application of the requirement to install sidewalks in conjunction with new developments and redevelopment will promote the general welfare of the entire community, by providing improved walkways adjacent to thoroughfares. In this particular case, however, staff finds that for several reasons, the public interest would be better served if a new sidewalk were not required. While Bryan's Comprehensive Plan supports and encourages transportation alternatives to automobiles, this segment of North Avenue was not identified (in the Comprehensive Plan) as an area where the installation of sidewalks or bikeways is a priority. Given the existing development pattern in this neighborhood at this point in time, it appears unrealistic that a continuous 80-foot wide right-of-way for North Avenue will be acquired and widened in the near future (if ever). Therefore, improvement of this street with sidewalks will require a more comprehensive and not just an incremental approach as properties develop and redevelop.

Finally, staff believes that existing landscaping in front of the subject property and all along North Avenue creates an aesthetically pleasing streetscape that contributes to the ambience of this neighborhood. Staff believes that while a new sidewalk would be generally desirable, under these circumstances it may negatively impact the living comfort and general atmosphere along North Avenue as it would require either the removal or almost certain demise of aesthetically pleasing streetscape features.

2. That the exception is necessary for the preservation and enjoyment of the property.

Staff believes that the exception is necessary for the preservation and enjoyment of the property not only for the property owner but the entire neighborhood. Strict application of subdivision regulations, in this particular case, could cause both private and public enjoyment of the property to be compromised.

3. That the granting of the exception will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area

Staff contends that granting the exception will not have any more detrimental impacts to the public health, safety or welfare of the general public than currently exist along this segment of North Avenue. In fact, as described above, installation of a sidewalk in this particular case may cause conditions that produce an outcome less desirable to the general public than what presently exists.

4. That the granting of the exception will not have the effect of preventing the orderly subdivision of adjoining land in the vicinity in accordance with the provisions of this Ordinance.

Staff contends that granting the exception would not prevent the orderly subdivision of adjoining land in this vicinity.

RECOMMENDATION:

Staff recommends **approving** the requested exception.